

# QUID NOVI

*McGill University, Faculty of Law*  
*Volume 26, no. 11, 22 November 2005*

**Feeling  
Stressed?**

Part II  
of a Two-Part  
Mental Well-  
Being Issue  
Series!

**Bang  
Head  
Here**

**For More Slightly More  
Constructive Discussion  
and Advice, Look Inside...**



# QUID NOVI

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**Envoyez vos commentaires ou articles avant jeudi 5pm à l'adresse: [quid.law@mcgill.ca](mailto:quid.law@mcgill.ca)**

Toute contribution doit indiquer l'auteur et son origine et n'est publiée qu'à la discrétion du comité de rédaction, qui basera sa décision sur la politique de rédaction telle que décrite à l'adresse: <http://www.law.mcgill.ca/quid/edpolicy.html>.

Contributions should preferably be submitted as a .doc attachment, or, for images, .pdf or .jpg.

# EDITORIAL

I am impressed at the number of students who have written in response to our first Mental Well-Being issue. Given the time of year, and how busy we all are, the fact that so many of you have spoken out on the issue indicates how important this issue is. I would encourage you to continue writing – while this was a two part special series, the Ad Hoc Committee on Mental Well-Being will continue its work through the year. The Quid is also contemplating a third Mental Well-Being issue for January, after the December exams are over and we all have a little distance from the stress in order to examine it objectively.

I offer a few words of encouragement to those who are feeling stressed, overwhelmed, terrified, or all of the above:

It will get better.

You are not the only one, and you are not alone.

Remember that there are people who care about you, and that you are worth caring about. So take care of yourself. Walk. Dance. Talk to a friend (And I mean really talk, not just the fly-by in the library of 'I'm so stressed' 'Yeah, me too' 'It's just that time of year')

Your teachers care about you too. If you're struggling, ask for help – they will think better of you for it. Don't forget that teachers include more than just your professors – they include TLs, law partners, friends, parents, religious leaders or even your pet.

And, if all else fails, rent a favourite movie, make hot chocolate, and think that a day from now, today will be yesterday.

-L.M.



# THE ELEPHANT IN THE ROOM: WHAT HASN'T BEEN SAID?

by Kara Morris (Law II) and Monika Rahman (Law I)

It's November. At this point, the stress levels in the faculty are ratcheting up to near their highest levels. Add to this an anonymous discussion forum, which some people have used to make personal comments about specific other persons' appearance, sexuality, and personal integrity. These actions violate the very community that we strive to create. Instead of feeling comfortable to debate with peers the legal and societal issues that are raised in course work, students who have been targeted find themselves wondering where the comments are coming from and why anyone would engage in such inappropriate behaviour.

McGill has a strong tradition of active student participation across many groups in the faculty. If the fabric of this community is torn, such student innovation and participation may falter. In past years, students saw gaps in services and activities as opportunities to be creative. Such respected institutions as the long-standing McGill Law Journal would never have come into existence without student initiative and contribution. More recently, students have begun two new academic publications, and have been involved with student groups representing a variety of different issues, ethnic groups and areas of interest at the faculty.

Positive student contribution is

jeopardized and devalued by the negativity of defamatory and unacceptable anonymous commentary focused on members of our community.

Some people have suggested that the poor behaviour has been stress-related and a symptom of the anxiety level in the Faculty. Others argue that the problematic comments are attributable to only a few individuals. This is no excuse for personal attacks and inconsiderate behaviour that is hurtful to others. However, those people who take issue with some elements of the Faculty operation and services are invited to use the recognized intra-Faculty mechanisms provided which have thus far been underused this term. These include: Quid Novi, MOLE online course evaluations, student representatives in the form of class presidents and LSA executives, the democracy wall located at the entrance to the atrium, the Assistant Deans, as well as public forums such as the Dean's hot seat discussion and town halls. And by all means, use online discussion forums. Such forums can contribute to ongoing debates, as long as they remain constructive expressions of opinion.

P.S. If the above was unclear, the following is the basis for general civility:

Be nice to people.

Don't lie.

Remember that your actions have consequences.

Contribute positively where possible.

And note that even anonymous internet forums log IP addresses when you post, and that this address and the time of the posting is enough to uniquely identify each anonymous poster. ■

**Love it  
or Hate it?**

**Let us know what  
you think of the  
New Quid Novi!**

***quid.law@  
mcgill.ca***

## MOLE

*Chers collègues,*

*It's time to share your thoughts on courses taught at the Faculty. This is your chance to provide anonymous feedback and voice your praises, satisfaction, or concerns.*

*Nous participerons, comme l'année dernière, au projet d'évaluation des cours en ligne par le biais du programme MOLE. L'accès à ce programme se fait à partir de Minerva auquel les étudiants auront accès durant la période d'évaluation qui débute le 17 novembre.*

*Low student participation in course evaluations significantly discounts the value attributed to course evaluations within the Faculty. Please take the time to fill out your online course evaluations.*

*Thank you for your cooperation!*

*LSA/AED VP Academic*

*For more information about the MOLE project, please visit <http://www.mcgill.ca/dp-cio/mole/>.*



# MENTAL WELL-BEING: SPECIAL SECTION

## THE SUNSHINE ARTICLE

by Alison Glaser (Law I)

Anyone ever have this experience: you're working really hard on something, then you take a breather and realize you are a bit light headed. You cast your mind back, trying to remember all of the events of the day, and realize that you have not, in fact, consumed anything other than coffee. Note to everyone (including me): THIS IS A BAD THING!!!! We need to eat things. Not eating can lead to anaemia, insomnia, heart problems, osteoporosis, and uhh...death in the long run. In the short term, it leads to tummy rumbling and light headedness. All this to say that skipping meals is not good for your health and is probably more stressful than stopping your work for half an hour to make yourself a sandwich.

Apparently, cooking is a skill that has been neglected in our open-a pre-packaged-meal times. This is sad, since as British chef and author Nigel Slater says, "if you decide to go through life without cooking you are missing something very, very special. You are losing out on one of the greatest pleasures you can have with your clothes on." For me, cooking can actually be quite relaxing and you get something yummy in the end. A good cookbook is invaluable for this activity. One of the best is *Joy of Cooking* because it has directions for really simple things like how to boil an egg all the way to super com-

plicated recipes like how to make and ice a wedding cake (seriously, it is 20 pages long!!!)

Those of you who are not cooking inclined, you can still get positive health and de-stressing effects from food by eating the best thing in the entire world: chocolate. I know what many of you are thinking. Chocolate isn't good for you, it is junk food. Well think again! Chocolate contains substances called flavonoids. They are natural antioxidants, which are also found in fruits and vegetables, tea and red wine. Many studies have shown that flavonoids may help reduce the risk of blood clots and heart disease. And it tastes good! Chocolate also contains **tryptophan**. Tryptophan is an essential amino acid. It is the rate-limiting step in the production of the mood-modulating neurotransmitter **serotonin**. Enhanced serotonin function typically diminishes anxiety. So when you are stressed and crave chocolate, you are not crazy. There is an actual brain-related reason for this.

An aside: man, I love this job. Last week, I researched massages, this week chocolates. Could life be any better?

Unfortunately for those of us who like to eat chocolate bars like Mars and Snickers, the benefits of chocolate only outweigh the ridiculously high fat content if you are eating nice dark chocolate, typically with

at least 75% cocoa. But still, the moral of the story is that eating chocolate is good for you and so you have no excuse not to eat something during the long study hours.

On a serious note, I'd like to make a proposal as part of the mental well-being week discussions. I think that there should be a "safe space" somewhere in the building where people can go when they are freaking out. Someone will always be there to talk to, maybe with some pamphlets on different resources, and calming music, incense, etc. And of course there will always be chocolate available. I am happy to start this thing, so if the powers that be want to get in touch with me, you'll probably find me in the basement, reading Constitutional and eating chocolate. That I've made myself. Ok, not really. That would be crazy. ■

You cannot prevent the birds of sorrow from flying over your head, but you can prevent them from building nests in your hair.

--Chinese proverb

Happiness is not a state to arrive at, but a manner of traveling.

--Margaret Lee Runbeck

(www.some-guy.com)

## ON THE COMPARISON OF LAW, GRADUATE STUDIES AND MEDICINE

by Alexandra Stockwell (Law III)

Why does studying law create more stress than comparable pursuits, such as graduate studies and the study of medicine? That is a good question, but I wonder how 'comparable' those 'comparable programs' really are. In fact, perhaps the differences between law and those other pursuits partially explain why one creates more stress, frustration and depression than the others.

When I decided between doing a Masters/PhD in English Literature and coming to McGill to study law, I saw the choice as being between the chance to engage more deeply in a discipline with which I was already familiar, or to jump into a new discipline, transferring my skills to a different context. Doing English was the safe choice, the comfortable one, where I knew what would be required of me and what to expect in return for my efforts.

Regarding medical studies my already anecdotal evidence is even less authoritative, but a friend of mine is currently a med student at Université de Montréal, after having done an undergrad in Occupational Therapy at McGill, and there seems to be a lot more ▶



# LEARNING TO TAKE MYSELF FOR A WALK

By Natalie Haras, Law I

continuity between her background and medical studies than there is between my humanities/arts background and the study of law. All medical students, it seems to me, need to have taken certain courses, such as chemistry and biology, up to a certain level. To a certain minimal extent, therefore, they have a common disciplinary background. Presumably this background is required because it relates specifically to the nature or content of medical studies.

I wonder if there is a background that would be to legal studies what an undergraduate degree in English is to a graduate degree in the same discipline. Law students come from almost every kind of background, but it seems to me that the study of law requires everyone to shift their thinking to some extent, learn a different way of seeing a problem, if not the world, and of responding to it. That shift can be very jarring.

My hypothesis (although that seems like too grand a term!), based on these observations, is that students pursuing graduate and medical studies are less likely to have faced the same kind of transitional change or upheaval as students who embark on the study of law. I think it would be interesting to survey students in all three types of studies, and ask them questions like 'how much would you say your current studies are an extension of your undergraduate studies?', and 'did you have to learn a new way of thinking or a new academic methodology when you came to law/medicine/graduate work?' Once we have a clearer idea of just how comparable the three types of studies are, we might have part of the answer to why they produce different amounts of stress. ■

This past summer, in the weeks leading up to the start of my first year at law school, I started to have second thoughts. I was finishing my MA and I was tired. I didn't want to pursue another four years of school. I didn't want to not do it either. I was confused. I was on the verge of taking up a career in shoe sales. During a conversation with my mother I informed her that if I did indeed go to law school I would certainly become a depressive alcoholic.

I have always been an anxious sort. It's an unfortunate way to be. So much of one's time gets spent asking "What if?" and anticipating misfortunes that do not materialize. It is especially irritating because inevitably life does throw you a curve ball and then you realize that you CAN handle it in any case.

I'm happy to report that two and a half months into my legal education, I am pleased with the choice I made. So far, I've found McGill to be a friendly and interesting place. I am enjoying the experience much more than I did my MA and feel little of the malaise and isolation that seemed to plague me when I was studying international affairs.

It might be that law school simply agrees with me but I think it is more likely that I've made a conscious decision to put my well-being first. It is fairly self-evident but it has taken me years to figure out. I

am not willing to sacrifice my mental, emotional, and physical health for academic achievement or a career. I have won my fair share of awards and it is always very nice, but I cannot say it has contributed to my overall happiness.

When applying to law school I knew that lawyers do not report particularly high degrees of career satisfaction. A family friend warned me, "You know, when I started, I didn't realize how hard it would be to deal with other people's problems all the time." A professor informed me, "Ontario already has far too many lawyers, why would you want to do that?" I replied that I simply wanted to have a lawyer's skills so that I could make a bit of a difference in the world.

I'm not unambitious. Forgive my flippancy, but I have moments when I want to save every refugee and prosecute every war criminal all while running a marathon. I am willing to put the work in but I do not want it to interfere with the rest of my life.

Indeed, in the last few months, I've become passionate about preserving my well-being. I do yoga. I cook proper meals and pack my lunch. I sing and dance around the kitchen whilst chopping vegetables. I take myself for walks on the mountain. I write bad poetry. I read the travel section of the *Globe and Mail*. I spend time with

friends. I avoid people who make me feel bad or inadequate. I go dancing. I take naps. I try not to fret if I don't summarize every reading- I don't think it will make that much difference in the end. I am not a model of serenity, but I feel like a much stronger person than in the past.

I am bent on keeping this up and being as well-adjusted and civil a person as I can be. I do not want to feel guilty about not studying for 14 hours a day. I think that is a recipe for disaster. Instead, given the discussions that have been going around the faculty regarding mental health, I think we should all strive to be a little bit kinder to ourselves and to each other. Take yourself for a walk. Have a hot chocolate. Tell someone why you think he or she is a really interesting person- or at least that you like his or her choice of socks. I cannot claim to be a reformed worrier, but I am pleased that these little things really work. Even in law school. ■

If your dreams turn to dust . . . vacuum.

Don't let schooling get in the way of your education.

If at first you don't succeed, redefine success.

(www.some-guy.com)



# ON EXAMS AND PANIC ATTACKS

by Eleasha Sabourin (Law IV)

Maybe I can't speak on behalf of others. Maybe I should try to tell my own story. This is difficult for me. It would be much easier to tell you about the classmates who lost tremendous amounts of weight while at law school (enough to create speculation about their mental and physical health), the classmates who needed to take a term off in order to regain their sanity, the classmates who developed insomnia, or the classmates who responded to their anxiety and depression through never attending classes, holing themselves up in their apartments, and only emerging for examinations. But my knowledge of my fellow students' mental health is, for the most part, speculative. Maybe they are merely thin, or maybe they don't need much sleep to function, right? Few people are prepared to discuss or acknowledge their own mental health issues, which may explain why the Faculty has been able to ignore the problem for so long. If no one talks about it, the Faculty may not even be aware that there is a problem.

So here goes. I started law school as a pretty confident person. Indeed, I probably come across that way today. But being at law school definitely took a toll on my self-esteem. I would venture to guess that I am not alone in this. After checking my Christmas exams and seeing on the 'wall of shame' that I had gone from being an A stu-

dent in my undergrad to being suddenly in the C+ to B+ range, I was devastated. "Bs", I thought, "Bs, how pathetic am I?" I went home and cried, thinking about all the other things in my life that I was not satisfied with. The immediate shock of course wore off, and I knew logically that this was normal (Bs are NORMAL here and are nothing to look down upon), not lasting (my Christmas exams were to assist only), and nothing to be seriously concerned about. But the impact upon my mental well-being was long-term. As someone who, I realize now, had largely defined herself by her grades (grades being, or so I couldn't help but think, some indication of ability and intelligence) I had difficulty re-conceptualizing how I defined myself. Add to this a variety of other factors such as being surrounded by highly-competitive, well-off, well-spoken, well-dressed classmates, being in a city away from my friends and family, and having an increasing debt load to pay off, it is not surprising that my mental well-being was not optimal.

During my final exams in first year, I was stressed, not unlike most of my peers. I thought that this was a normal level of stress, until I suffered my first-ever panic attack during my torts exam. I was sitting in the exam room, reading over the questions for the second time, when I started feeling nauseated. The room felt like it was 40 degrees. I got up and left the room, at first thinking that

maybe I had the flu, or maybe the room actually was too warm. I sat outside for a couple of minutes. After, I went back into the room and sat back down. I tried to keep writing, but my thoughts were moving so slowly "Only 2 paragraphs written in 1/2 hour? What?!" The room was sweltering, and then I started having trouble catching my breath. I finally went up to the exam supervisor and told him I wasn't feeling well. I remember being out in the hallway waiting for the kind woman in charge of deferred exams to arrive, when one of my classmates emerged from the exam room. 3 years later, I can still feel the embarrassment I felt at that time. "Oh no... X... What if he tells everybody he saw me crying? Everybody will know I freaked out." Of course, now everybody does know that I freaked out because I've told them so in the Quid. But now I don't care. I know several students who have had to defer exams due to mid-exam panic attacks. And this is no reflection on their knowledge of the subject matter, their overall intelligence, or their personal strength.

I didn't fall apart. I didn't become anorexic or bulimic. I didn't commit suicide. I didn't stop going to classes for an extended period of time. I didn't drop out of law school. That torts exam was the only exam I've ever deferred. I'm lucky. I made some tremendous friends at law school, a very close circle of whom I trusted enough to be able to talk to about many (though not all) of my problems. I'm not sure I would have made it through law school without these people, and I thank

them for being the foundation of my mental well-being. But I know not everyone is as fortunate as I am. Many students do not have a strong level of closeness or trust with any of their peers, and friends and family who haven't recently experienced law school do not necessarily understand or relate to the pains of the law school environment. So I worry about these students and wonder how they manage.

I'm not sure how much McGill Law can be blamed for the mental health problems of its students. Maybe all law schools are equally stressful. Maybe it's just a function of having too many type-A personalities crammed into one building. But I can't help but wonder... I wonder whether 100% finals aren't a contributing factor; whether needing to submit transcripts in order to gain employment might not affect mental wellbeing; whether the lack of support staff to advise and discuss academic and personal problems might not explain why the Faculty is ignorant of its students concerns.

After 3 1/2 years at law school, there is little doubt in my mind that concerns of mental health have been seriously under-addressed by the Faculty. That is why I am so thrilled that a dialogue among staff, administration and students is beginning. And while an open discussion is a good starting point, my hope is that this dialogue will yield useful results in the not-too-distant future. ■



# LETTERS

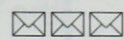
## We Asked, You Wrote

It is almost five pm, the extended deadline for mental health-issue entries approaches. This will just have to be just a quick note of thanks then to all those who have been hard at work on the important mental health initiative in the faculty. It seems to me that regardless of where any of us would place ourselves on the spectrum of "everything is super as is, those who are 'weak' should drop out if they can't take the heat" through "what strange hell is this", the faculty should strive to be an inclusive place that provides support for everyone. We should keep in mind the fact that roughly half of each year comes from out of province (and therefore may not have any family or friends present for support, or may not have family support to start with), that many students will either be starting university for the first time or returning after a break of one or more years (with attendant emotional and financial consequences), that some of us have children who occupy a lot of our time (which reduces the amount of time we can devote to studies), that some of us are compelled to work in addition to our studies, that some of us are studying in our second and third (or third and fourth) languages, etc...

As Dan Ambrosini mentioned in last week's *Quid*, this certainly does produce "an interesting cocktail effect" - one that should enrich us all. But it should be of no surprise to any of us that this produces a

diverse set of reactions and adaptations to the law school environment. The fact that we are starting to consider how to support every member of the student body is critical, and will result in a better environment for all. So I will repeat: thank you to all of those who are taking the time to try and create a healthier Faculty.

by Anna Matas (Law IV)



The concerned group of students who initiated the current focus on student well-being should be commended. Their courage can now go one of two ways: it can either trigger a brief conversation about law student mental health or it can ignite a process directed at an institutional change for the benefit of future law classes at McGill. We should hope for the latter.

It is difficult to imagine how anyone can reach their third year of law school and not notice the emotional toll that this challenging program can take on just about everyone. I have seen troubling ups and downs with too many friends and acquaintances over that time (and several cases of enduring difficulty) to allow me to graduate unaffected by the toll that a law program can take on a student. And I am confident that the stress, anxiety and isolation is felt across gender, age, background and 'academic success' barriers.

There are an endless number

of reasons why a law student might need help along the way to graduation. Any of us could begin naming them, but no doubt several students suffer in silence, either too detached from support or too proud to ask anyone for help. As for the matter of pride, there is little that is sillier than the age-old and still advanced notion that only the weak seek help, as Dan Ambrosini so correctly alluded to in his article in the *Quid* last week. Asking for help is most often an act of strength, humility, honesty and wisdom - values that any growth-oriented community should treasure.

Connecting the anxious or depressed student to that help is a great challenge that faces any law faculty. There are many caring and compassionate members of the McGill faculty and administration who, I am sure, will play their part in working to put effective measures or programs in place to assist students. But it is up to students to speak up and let them in on just how serious the problem has become.

If within two years time, there is in place here at the Faculty an effective means of responding to the wellness needs of the students, then the group of current students who have launched this reflection on the topic will have made an enormous contribution. Law school forces many pressures on young and extremely talented individuals. The external rewards are numerous, from high paying jobs to social prestige to remarkable international opportunities. But if the cost is mental well-being, can we really call that a success? Beyond our talk of rankings and career choices, of clerk-

ships and OCIs, one fundamental truth must remain above all others: health is the first wealth.

by Robert Israel (Law III)



Thank you to the students who have shown interest with respect to the well-being of law students and faculty members. Law school is a source of community for me - where I develop friendships, working relationships and hopefully mentorships. I want to welcome any approach that looks at the faculty of law as a community in and of itself. I do not have a family to "go home to" - my parents were immigrants who divorced when I was young, each member of the family has since gone their separate way. The nature of law school is such that it is where I spend most of my time - law is what I spend most of my time studying - it is where I interact the most with people - it is essentially the place where I am learning the most about life.

If we operate on the assumption that law students are part of other communities outside of law school where help can be had, we do a great disservice to those students who - like myself - feel that they have a community at law school. I have met many wonderful people at law school and I feel very fortunate to be part of this community. I also feel very hopeful that there are people who look at law school as a formative experience in and of itself and not as a place that we transition in and out of.

Anonymous





# MENTAL WELL-BEING RESPONSES

compiled by Kara Morris (Law II) and Tara Bognar (Law II)

*Editor's Note: The following comments were made by students on Thursday, November 17th, at the 'Venting Table' in the Atrium.*

Chill out everyone! There's so much more to life than law school! Live life and enjoy it!

Dear faculty and community,

Why should I spend time writing detailed teacher/course evaluations when all I get from the teacher is a letter?!?

Sometimes the subject matter is presented in a neutral way as if it did not affect a student – but it does. I'm thinking of the Persons case and prior denial of women's rights, And the readings make me angry but I pretend I don't care or that reading about other peoples' tragedies all the time doesn't matter.

I'm really stressed and tired. Really really. Really.

The professors could get to know our names – our first names, especially!

Please remember, it's better to help your students succeed than to prove to them that you're really smart.

Please just be clear when you explain things.

Please avoid lengthy tangents – refer students to your office hours!

Yours sincerely,

Us

When I first came to law school I thought it was the best decision I ever made, and the people I met were all amazing and I was honored to be in their presence. As time went on, the social dynamics changed to the point when I just wanted to avoid everyone. Now I am coming to terms with the reality that the competition enforced by the grading system, law firms, professors, students, and the legal institution itself has forced us to grow weary of society in general, including the people whom I have no doubt could have been my best friends in any other context. This is what we gave up for law.

I've given up! I can't change the fact that I'm knee deep in it and that no amount of stressing or anxiety will change it... I just know December 19<sup>th</sup> will arrive and I'll be done either way!

I am in denial!

The least useful evaluation method was 17 multiple choice questions worth 50% of my grade. I studied hard, understood the material, and practiced questions, then performed very badly. I think it was a terrible pedagogical strategy and I'm feeling very angry. I've been very disappointed by the quality of teaching at the Faculty overall. I'm not given sufficient tools and knowledge to succeed in evaluations. Expectations of the teachers do not match what they are teaching. This semester I've noticed many of my friends more depressed and angry; they have said the same about me

I find particular classmates very friendly and generally sympathetic. But the experience in general is rather inhuman. I feel I am joining the massive machinery of 'progressive' society. Learning to be a technician of the soul. As if an ignoramus like myself could be trusted with such tools.

I would be a lot less stressed out and be less anxious if I had an advisor... of course. Dean Kasirer said that the Law Faculty does not have the resources or the money for advisors. That is crazy. Advisors are fundamental in educational institutions in providing guidance and advice (re: courses, options, careers, etc). Instead the school leaves you to advise yourself and go to other uninformed students.

Many students come here with a commitment to social and political change. Classes, career days fail to answer to these students. Students are left with anxiety and a sense of powerlessness. Many of us do not recognize our values in the firm universe. It is essential that these students' needs be engaged in a meaningful and systematic way.



# IS THIS WHAT WE CAME FOR?

by Jessica Miklos (Law III)

Once upon a time, I knew who I was. I knew what I cared about. I knew that I had something to contribute. Then I came to law school. In my time here, I have learned to question everything. In particular, I've learned to question my ability to make a difference in the world, and to question my right to even try. When I catch myself thinking these things, I wonder who has taken over my brain. It is in those moments when I most want to run far, far away and do something, anything, other than practice law. And yet I've invested so much of myself in the process of being a law student and becoming a lawyer that I don't feel that I can "opt out" without being seen (by myself and by others) as a failure.

What is it about this place that causes me and so many of my

peers to feel this way? Is it me? My peers? My profs? The school itself? The nature of the law? I don't feel comfortable laying the blame squarely on any one of these sources. We all contribute. The question is: what do we need to do differently to avoid sacrificing the very nature of ourselves when we come here? Like it or not, the problem resides within every one of us, and the solution has to come from the same place.

I applaud everyone behind the mental well-being initiative for starting this discussion. The answers won't come in a day, but I know that they're here, and that we'll find them so long as a few brave souls are willing to stand up and ask if this is really who we want to be and if this is really what we came for. ■

Recruitment was very worrying for me, and I didn't even participate. In first year I thought I could just focus on learning and think about my career later, and then it felt like by the time second year started I'd already missed deadlines! I wish someone had told me when to start worrying. I also feel like I have no idea what is out there in terms of jobs, whether there is anything at all in between big firms that recruit and the government and NGOs, and how to find them. And people advise me that I really should figure out what kind of law I want to practice and in what environment, and it sounds like good advice but I have no idea how to go about doing that!

I last got really stressed when I didn't have a summer job, it was May (or April) and I couldn't concentrate on exams.

# TO WHOM IT MAY CONCERN:

by David James Buchanan

In recognition and support of the initiative to garner the further interest of the law faculty at McGill University in student health and well-being I offer the following words:

Having spent seven years involved in undergraduate and graduate programs at three major Canadian universities I confidently suggest that there is no greater area of concern for faculty, staff and students than the health and well-being of the people who produce "the university". Each participating faculty, as an integrated collective social machine, must find the means to direct *whole* people towards meaningful, beneficial development and interaction both within and external to academic space. To do otherwise is not only to hinder the growth of individual students and the faculty as a whole, but citizens and the greater community of which the university is an integral part.

The university is a social institution that directs flows and establishes opportunities with fluid, collectively determined borders between campus and community. As such, no single faculty should ever be reduced to a closed, functional space that shapes people in terms of particular outcomes that disregard the complete role that all citizens must be prepared to play beyond graduation. University students, at all academic levels, experience an

intensely emotional, demanding mosaic of intellectual and psychological lines of flight that affect them over the course of a lifetime. But these young men and women striving for knowledge and technique, perspective and understanding, may not be training for employment as much as preparing to contribute to the place we call home, to the self-determination of a social, political and economic context that will define what we call society.

As such, the role of the university as an academic institution must encompass the greater social responsibility of ensuring and developing the health and well-being of all students. I strongly recommend that the law faculty of McGill University take the initiative in setting nation-wide precedents regarding the care and consideration of the mental, physical and emotional welfare of the student community. Further dialogue between caring, well-informed faculty and students will no doubt produce the open atmosphere and thoughtful means of identifying and approaching the problems which need to be addressed.

Sincerely,

David James Buchanan ■



# OUT WITH A BANG: IN-HOUSE STRESS, GOOD FUCKS, PARTING WORDS AND GIVING THANKS

by Debbie Mankovitz (Law IV)

Finding a good course summary in my inbox always makes me happy. The day before yesterday was no exception. But it came with a special request. Could I please submit something about the level of student stress in the Faculty - by Thursday, 5 p.m. (for insertion in the Quid)? My heart said yes. My body said, "Forget it baby, you've had four hours sleep again. Forget about your own school work and pending exams, you'll have to re-do supper which wasn't great and nobody ate, the kids have mountains of homework, not to mention instrument practice, reading, and bedtime chores..." (My supermom cape quivers, begging to be folded and put away). School work stress starts early, lest we forget. Homework has been deemed a "virus" by one American lobby group (how they love their metaphors of "disease" and "evil", bless their sorry little southern hearts).

In this case, I must confess, the metaphor rings true, homework or *destructus families*, which infects households from September to June, is said to "attach itself to a host child entering the home in the benign form of schoolwork. Early symptoms include loss of sleep, mild nausea, impatience, anger, confusion, and at times, severe panic attacks".<sup>1</sup> In my second year of law school, I wrote a treatise on the subject to my eldest son's teachers. It began something like this: "Brought to us by the tiny bearers of oversized backpacks, homework invades the privacy of

our homes. It preempts family traditions, meals, downtime, sibling play, sports, music practice, and everyday fun and communication. At the same time, there are no established provisions for parents or students to challenge, negotiate, appeal or arbitrate any aspect of homework. Motherhood is replaced by teacherhood, blah, blah, blah..." (This point about arbitration, while apparently true in the U.S., proved untrue at my son's school). My first potentially big lobby project was a big flop. Just some big time projection of my own stress over Law School homework? I quietly dropped my anti-homework lobbying, along with helping any of my children with their homework. They took it upon themselves to do it at the Community Centre (after-school program, they attend daily). And that was that.

I quietly abandoned law school homework too, early on. It was in my first year, two months in, and up every night until 2:30 A.M., laptop open from the time I got home until bed. I was at the kitchen table, one evening, when my husband came up and (gently?) shut my laptop, "You're not taking this home. I don't take my work home with me. You neither." I could have said, "You macho pig. Leave me the hell alone. How dare you? Why aren't you more supportive?" (OK, maybe I did say that) But afterwards, I said "Fine. Good. You're right." And that was that. I since talked to the spouses of other law students who said they fantasized

about tossing their partners' laptops out the bloody window, but never dared. My husband dared, and probably saved me a few years on my life. I stopped doing my readings then, and discovered the world of summaries. I became an expert at scouting for summaries, the good ones, and others came to me. Thanks to all of you out there.

Many have asked me over my years at law school how I do it with 3 kids. "I can't even take care of my houseplants"; "I can't take care of myself," you say again and again. The honest answer is "I don't know". I bought a mini-DV camera in the fall and set about to find out. I didn't get far. No time. So I'd like to explore how I do it, here and now, as much for myself as for anyone curious. Maybe a snap shot of any given day may help. As I write, I realize I've had ideas but not a second to put them to paper in the past 3 days. My 7 year old is popping in and out right now asking if I've heard her play her entire Suzuki violin repertoire on our ancient out-of-tune piano, "How's it sound? How'd I do?" Yesterday, got 4 hours sleep again.<sup>2</sup> I had to miss a class to take my kids to the dentist. My littlest has an abscess from a badly filled cavity. Tooth must be pulled. A front tooth. Bummer. Their teachers want me to take them back to school in the afternoon. There's a nasty rain storm and raging wind. I'll take them home instead. Since when do I care what teachers think (I mumble to myself). It's 1 p.m. At home I work on a fraction

of my assignment for my litigation workshop in the evening. Spouse home, I'm off to pick up my eldest from school. We take the bus, saddled with backpacks, trumpet, lunch box, water bottle, all the way back in the wind and rain. All the kids rounded up, I'm off.

It's 4 p.m. by the time I get off the bus at the top of Pine. My wondermom cape billows out behind me in the wind, as I fly down the hill. My trial partner and I do our best to prepare our problems for class. The exercise involves tearing apart the testimony regarding a Muslim woman alleging stress due to racism. We're good at our task. We tear the woman apart (my black partner and I, a lefty Jew whose family endured the Holocaust). 5:30 p.m. class starts. We're not called. Whew. I could use a shower, and my notes are a mess. We listen for an hour and a half of examination-indirect and cross of a real estate appraiser. We're burning holes in our seats. It's late. I'm ready to off myself. I look around. I'm not alone I'm afraid. Someone's going down. Student to my left spots my Quid, and practically leaps out of her seat in excitement. Our student Judge finally interrupts to tell the parties to wrap it up, not a moment too soon. Home at 8:30 p.m., earlier than usual for a Wednesday night. In the wind and rain. My daughter's called me three times on my cell-phone. My spouse has brought home smoked meat. I watch an hour of TV drivel and fall asleep in a big heap with my kids. 10 p.m.

Today, I'll write for the Quid I say. Here I am. This is my last semester. So I'm going to do it right, I'm thinking. No more volunteer shit, no more jobs, looking for work. I'm going to be a student and a mom, that's it.<sup>3</sup> Like any good ▶



## QUID NOVI

Colombian (I'm an Austro-Russian Jewish immigrant to Canada from the Bronx, who happened to spend 6 years in the Colombian Andes) I decide, at the start of the semester, to get up at 5 a.m. (an hour after my Colombian counterparts, to respect my lazy Canadian ways). I tidy my 850 sq. ft. apartment (which we've shared over the years at various times with granny and her Great Dane, also Fernando - an ex-student of mine from Colombia, and later a nutrition student and her 4 year old daughter Lucy). Then I get a start on supper, a good soup. 20 minutes of yoga with Rodney Yee. At 7 a.m. I wake the kids for George Shrinks (Kids CBC), pack their lunches and get them off to the bus. The eldest I take to school. At 8:30 a.m. I'm off to the Y for an hour of workout, and an hour of pool, whirlpool, sauna. I haul my rosy ass to the Faculty for a couple hours of classes. In the p.m. already. I study a bit. At 5 p.m. get kids at Community Centre (to where they're bussed). Supper, homework, if any, instrument practice. We collapse in a heap.

My Colombian rhythm was working for me up until my birthday on October 14<sup>th</sup>. On the morning of said day, I had the best fuck I've had in months (Thanks to Renée and Erika S. for your irreverent paving the way for the use of profanity in the Quid. I love you both forever for your input! Also I'm outta here soon, so I don't give a fuck!) It was so good, we broke the condom. Now I could have many responses. I chose "I'm turning-38- a-mother-of-3- and-I-can-still-fuck-hard-enough-to-break-a-condom-I-won't-tell-you-what-position-I-was-in!" Then I want to the Pharmacy for "Plan B" (morning after pill). That's when Plan A went flop. I could feel the drama unfold inside my

body. The energy rush of good sex, I'm fantasizing where I'll be in July 2006, babe in arms. Then I take the pill and my energy nose dives. There's some major warring going on inside my body. It's taking me down - the-pregnancy-that-wasn't. I'm tired, so tired. But I ignore my body signals: "Turn off world and sleep for 48 hours". Instead I press on with Plan Colombia. I'm an automaton. It's 5 a.m. I get up. Tidy house, make soup, yoga, kids' lunches, off to the bus, to the gym, to class... I'm on my way to the Y one morning. I feel like I don't have enough energy to get home to bed if I wanted. Yet I've got enough juice to go to the Y and work out for an hour. How strange I'm thinking. I'm like the girl in the red shoes. I'm dancing and I can't stop. I can't stop dancing. I can't get out of the shoes. Crap. I'm in trouble. I know there'll be consequences. I go to the gym anyway. Two days later, I'm in bed with a fever. I stay there for 2 weeks. I'm thinking about SARS victims. I'd be the first to go. The cough is so bad, I'm thinking its whooping cough (my two little ones get it too, but shake it quickly. My eldest never gets it, "so far so good, mom") I go to the McGill Health Clinic. I get the balding asshole who doesn't believe in the traditional protocol of shutting curtain while you get on gown for the stethoscoping. "Take off your shirt" he says bluntly while keeping his eyes on you, no matter what your ailment. "I think I have whooping cough" I say. "You have whooping cough" he says. Then he prescribes a bunch of antibiotics. I don't take them. Two days later at my kids' pediatrician, she says whooping cough "no way". I trust her diagnosis. She sees several thousand kids a week. Anyway, I'm boycotting the pharma industry. I'd only take a pill on my deathbed...

I'm getting better. Slowly. I was called as Judge in my trial class last week. I had a coughing fit and had to leave the room just as counsel was about to impeach a witness. But now we're down to the crunch. It's all about survival. Two weeks left of class. A trial to prepare, and 3 exams to study for. No more getting up early, well not that early. No more Y. Mo more yoga. I'm starting to slouch. Hunchback I become. Quasimoda of the stacks. As I prepare the journey inward, and for the last time I hope (except for Bar school, and practicing law, whose kidding who?) I also prepare to "suspend my disbelief" - my disbelief in law as a way of life, as a form of conflict resolution, as a way of inter-relating, in the Canadian dream, in the cold, calculating routine of it all, in the Holocaust of the everyday... My mind wanders... to nostalgia... for my Colombian wild days, in my jeep, hair in the wind, chickens in the patio, love in the air, and bombs in the breeze... All I know is life goes on, thick and thin, and I hope I'll be around to drink it all in...

Finally, I want to thank a whole bunch of women at Law School for being around, and inspiring me everyday with your intelligence, sassiness, spontaneity, drive, and humanity. I'm truly in awe of you all and inspired. Thanks first and foremost, to my "best friend" at law school Debbie Ferguson (my namesake) for your unfailing support and acceptance in everything, your deep wisdom about life and family, and just for being there at every turn. Thanks Erika S. You radiate energy wherever you go. I commend you for your spontaneous, no-nonsense, free spirit "I'm off to Ecuador for the summer; Let's-chuck-the-books-to-the-wind-and-go-for-a-walk-on-the-mountain; This prof is

growing cobwebs, I'm out of here..." attitude to life, and your sense of play. Thanks Erika G. I'm in awe of you. I've never met someone so young with her feet so firmly planted on the ground. Thanks Natasha for your exemplary commitment to social justice, women's issues, and now to the mental stress of your fellow students - during your time here. Thanks to the "group of 4": Sidney, Kathy, Renée, and Ana: You've all lent me words of support in my time here and model friendship, solidarity, humanity and determination. Thanks Mary Kate for your philosophical approach to law, for asking the hard questions, and for your determination to press on. Thanks Mary T for your sense of humour, for never once failing to smile through it all, and what a smile! Thanks Viviana for your friendship, your determination, and for modeling commitment to those around you, for contributing to Faculty life as a matter of priority. Thanks Emily M, Eleasha and Lyndsey for your sense of humour, for smiling through it all, and for your words of support over the years. If I've missed anyone, sorry. I did this in a real rush, like everything "lawful". I wish you all Happiness, and the Root of Happiness... I love you all, and Thanks to all.

Done. Could some please call 911 now? ■

<sup>1</sup> From the "Homework Freedom Act" developed by Professor of Education, former School Principal, Director of Special Education, Coach, and father of five, Stephen D. Aloia, PhD at:

[www.webspawner.com/users/nohomework](http://www.webspawner.com/users/nohomework)

<sup>2</sup> This lack of sleep thing is totally new - to my past year and a half of law school. I think I slept more than anyone in first year, like an innocent baby I slept...

<sup>3</sup> Well sort of...I've taken up the guitar at McGill's Conservatory. If I go 2 days without playing I'm in withdrawal. It's my love and passion at the moment.



# HOW CATHERINE WALSH SAVED MY LEGAL CAREER

By Michael Simkin (Law III)

I have often wanted to write in the Quid, but this is the first time I have felt there was a forum for my voice to be heard. Often, we wonder why more people don't speak up in class, or say what they're thinking. Not everyone feels comfortable opening themselves or their ideas up for debate and criticism. Legal discourse tends to revolve around issues of substances and fact, so it is hard to speak in terms of feelings, perceptions, or experiences and feel legitimate in doing so. I hope that what I have to say will resonate with others, and I hope that there will be reactions. Just be gentle. It's my first time.

## Law I: Banking on Legal Education

I almost dropped out of law school in first year.

I missed the fun times I had in the School of Environment. I knew I belonged there. I wanted to learn and they wanted to teach me. I was never short of professors to take me under their wing. I had the support and encouragement of at least a half dozen faculty members and dozens of fellow students. Those were happy days. And I thrived.

I had no such support in the Faculty of Law until it was nearly too late. In first year, law professors seemed to me much less approachable than their School of Environment colleagues. I think this had to

do with two things: 1) their approach to teaching; and 2) their approach to fashion.

Law professors seem to adhere to the banking system of education with rare exception. Professors stand at the front of the room and "deposit" information into students' knowledge banks. Nary is a word ever written on a blackboard and student participation is limited. I have felt lost at some point in almost every course, but I have never felt comfortable asking a professor for an explanation after class. I must have missed something during their lectures. Their cheques had bounced and it was my fault.

And what's with all the suits? Law professors dress like they have a call-back interview at some big firm. Do they realize that this makes them less approachable? Do they know that their dress code is unique among university faculties? Do they have a choice? Am I supposed to look up to these people as role models? What if I don't want a corporate job? What if I don't want to wear a suit? Is there a place for someone like me in a Faculty of such overt conformity?

I finished my first year bruised and battered from my poor performance on my 100% finals. Obviously, I wasn't "getting" it. I also didn't get a law job during the summer (well, to be fair, I didn't apply). And my relationship with my partner of three years fell apart. And there were prob-

lems with the organic food co-op I was coordinating: our distributor was bought out by a multi-national corporation with very different politics than my own. Things were not working out as I had planned. I didn't feel empowered by my legal education - I felt drained, disillusioned, and uncertain if law was for me.

## Law II: Theory and the Law

I almost dropped out of law school in second year.

Children and the Law, Feminist Legal Theory, International Development Law, International Humanitarian Law... These courses provided an excellent theoretical background, and the professors were all champions in their respective fields. But there was nothing... *nothing* in these courses that gave me any sense of what I could do to make a difference in the world. It was just too theoretical for me.

I wanted to address issues of

oppression I had observed in the Palestinian territories during the summer, but the endless rights discourse and policy debates failed to capture the strength and emotion of the people I met who were actually getting on with their lives despite their circumstances. My experiences were of little theoretical value. My journals and photographs remained on their bookshelves. I would have to do *real* research now.

I'm a very practical person. But I'm also a dreamer. I started university in engineering. But I wanted to be an astronaut. I want to know the law, but I also want to be able to use it to make changes at the community level. My first taste of this possibility was the Legal Information Clinic. The clinic was a lifeline for me, and it helped me struggle on in my coursework.

Then I realized I would actually have to *write* four term papers, each forty pages long. I panicked. I stopped attending classes (well, the ones ▶

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I had been attending, at any rate). I was late handing in most assignments. I started having problems with my roommates. Everything was closing in on me. I enquired about withdrawing from the semester and I considered giving up on law school. Fortunately, someone referred me to Professor Walsh.

Professor Walsh met with me, looked at my file, and asked me about the things going on in my life. She talked to me about law school. She listened to me. I told her about the anxiety I felt because of my term papers and how I was always handing things in late. We worked out a timeline for me to submit my work, and she checked up on me and my work on a regular basis.

Now, I don't want to sugar-coat my experience. It was embarrassing after 9 years of post-secondary education to depend on this type of probation. And there was nothing easy about writing four massive papers in three weeks, and I certainly didn't submit any Pulitzer material. But I passed. Professor Walsh coached me to the finish line.

### **Law III: How I Learned to Stop Worrying and Love the Law Faculty**

I won't drop out of law school this year.

My perspective has changed. Academic performance is important, but my mental health is indispensable. My out-of-Faculty initiatives have been extensive, and I believe I will be hired on those merits. I want to be hired for doing the things I love to do. I believe there are others in the Faculty like me.

I never participated in campus

recruitment, and I never will. I believe there are others in the Faculty like me. We all have plans, and we can all be successful. Perhaps I will work for legal aid. Perhaps I will work for a boutique firm in aboriginal law. Perhaps I will open a theatre company. Right now, I'm just doing what I love. I'm doing a legal clinic course at Project Genesis. I'm involved in theatre and development work at Concordia. I'm active in several cooperatives around the city. And I know there are others in the Faculty like me.

The title of this story is ironic for two reasons: Catherine Walsh is probably not the only reason I'm still in law school, and my career is not necessarily going to be a legal one. But make no mistake – her act of caring and encouragement at a pivotal moment in my studies was the first pebble in a landslide of positive developments that helped me change my experience in Law.

I hope that other professors in the Faculty will consider the power they have to help and encourage their students, and that they will make it a goal to help at least one student each semester.

I hope that students will pay more attention to the people around them, not just the conversations in the hall but the exceptional individuals that make up our unique community. Most important, I believe that we must not silence ourselves even if we feel we have different wants and desires. I believe we need to support, respect, and encourage each other, whatever our reason for being here. And I know there are others in the Faculty like me. ■

# WHAT I LEARNED... THE HARD WAY

**Anonymous**

**L**ike many law students, I was an overachieving student. Since early elementary school, I was involved in enriched academic programs, where I thrived. School was something I could be good at, and since I was a bit of a nerd with little athletic ability and no interest in pop music, it became what I 'did'.

Which is fine, in moderation. The trouble started when I began losing perspective of how important scholastic achievements should be in the larger scheme of life. My measure of life success was how well I was doing in school. Other aspects of my life were always lower on my list of priorities than nailing the next assignment, or acing the next exam. On top of that, I felt that academic success had to be complemented with hard work in other aspects of my life - I was determined to become the perfect 'well-rounded student'. As a result, I joined clubs, committees, team, and devoted all the spare time I could to them - as long as it didn't interfere with my academic success. For a while, it was working. I had a ridiculously high GPA, and a CV that would impress just about anybody.

My crisis point occurred when I was near the end of my undergraduate degree. It was during spring finals, and I had applied myself industriously to studying. I spent hours in my

room, reading my notes and textbooks, making notes from the notes and testing myself on the material. My approach to reviewing material for the final exam had become trying to re-read an entire course's worth of material in a few days. I had to know it all, by heart, or I would fail. Never mind that I had worked hard all semester, done the readings, attended all the classes, slaved over the assignments. Back in my room, I would sit and read and take more and more notes until my eyes grew tired and my fingers sore. My back and neck was stiff and sore from hunching over my books. My stomach was tight and I was chewing my nails down to the quick. Most of all, I was miserable. I felt like I was in a prison, forced to slave away at this seemingly endless pile of work. What was worse, I felt like I had to do it all, or I would have failed. If I just worked hard enough, I thought, I could guarantee that I would do well. Failure was not an option. Others might be weak or lazy and not work enough - I would be smarter than that. I would know everything there was to know for the exam. I couldn't let myself slack off, or I might fail - and I was not about to fail.

Faced with the seeming prospect of failure or studying as hard as I could, I chose the latter. I pushed myself as ▶



far as I could go, bargaining with myself when the resentment and fear started to overwhelm me. Just a bit more work, I told myself, and then you can have a break. You can read a few pages from the novel you want to read, or you can take a snack break. But the novel was just more reading, and the food was sawdust in my mouth because all I could think about was how much more there was to review. I thought that the breaks would be enough to refresh my brain, and keep me going until the finish line. The trouble was that the breaks made me more miserable. They did provide welcome temporary relief from studying, but I couldn't enjoy them because I felt guilty over not studying. Moreover, I knew that the break would be over all too soon and the work waiting for me was not going away. All I could think of was how much I wished I was doing anything else. I hated this feeling of pressure, of fearing that I wouldn't succeed or that I wouldn't be good enough to meet my standards. I just didn't want to do it anymore – I wished I could read a novel without feeling guilty or having the countdown timer running to when I had to go back to the books again. I just wanted the cold, dark feeling of dread, fear, guilt and anxiety to go away.

One late afternoon, I was in my room, tired, hunched and lonely. I was looking down at the work I was doing and felt my brain start to choke, like the gears were slipping. A wave of despair swept over me, and I started to cry, silently. I didn't want to do this anymore. I wanted it to stop.

If my father hadn't come into the room at that time, I might

have continued suffering in silence. However, he dropped in to see how I was doing, and I couldn't hold back any longer. I wept, ashamed, exhausted. All I could say, over and over, was 'I don't want to do this anymore'.

At first, my parents thought I was just over-tired, and suggested I take a break. I did, but I knew that wasn't going to be enough. I was more broken than I knew how to fix. I spent the afternoon alternating between crying and staring out the window. I told them how stressed I was about how much work I still had left to do and that I'd never get it done before the exam. They tried to be helpful by sitting down with me to figure out what still needed to be done, asking if they could quiz me or help me work through the concepts, or help with taking the notes. I tried for a while to take them up on it, to sit and work together, but I was too burnt out to really take in any more information. I kept dissolving into tears each time I faced my books. I didn't really want to study anymore – I just wanted it all to stop.

Somewhere at the back of my mind, I thought that if the world could just see how much I was hurt, how broken I was, that I'd be set free – released from the shackles that bound me. Maybe I could talk to my profs, or get a medical deferral – anything so that I wouldn't have to study anymore, so I wouldn't have to write the exams. All I could think was 'please, please make it stop'.

Looking up study stress on the Internet during my enforced break from studying, I diagnosed myself with burn-out. I felt somewhat better in know-

ing that how I felt had a name, but naming it didn't make it go away. Perversely, I also started to feel that I hadn't 'earned' a burn-out. Most of the websites talked about culminating layers of stress – people who were working full-time, going to school full-time, had kids, a sick mother, and whose spouse had just died. In comparison, my exam stress seemed petty. I didn't deserve to burn out – I hadn't suffered enough. I wasn't working, I lived at home, and I had no boyfriend to dump me. If I confessed how awful I felt to a prof or somebody official, they'd say 'well, that's too bad, but it's just an exam – it's not like you're life really sucks'. A small part of me understood that my exam stress was small, that the emotional upheaval was out of proportion to the source of the stress. At the same time, though, I felt what I felt – but didn't think that I'd earned the right to feel that way.

After two days of witnessing my slow breakdown – the tears, the compulsive hand-wringing, the nail biting and the head rubbing – and after finding that all the words of encouragement and comfort, all the hugs and hot mugs of tea in the world weren't fixing it, my mother informed me that she had called the University's Mental Health Office. I had an appointment to see a counsellor at 10:00.

I felt ashamed going into the Mental Health Office – I was the strong one, the one who could work the hardest and get the best grades – the one whose hard work guaranteed success. At the same time, though, I thought that maybe the counselor could do what I couldn't – get me out of exams. There must be some sort of special dispensation for

burn-out, I thought. Maybe they'd let me not write the final exam, and just give me a grade based on the work I'd already done. They had to – I just couldn't face more studying, and couldn't face actually writing – and potentially not doing as well as I should do – on the final exam.

As it turned out, going to the counselor was the best thing that could have happened to me. At first I thought she just wasn't getting it: she asked about my work and grades so far, and how much studying I had already accomplished, how much time it would take to get it done, and maybe I just needed to study in a different way. She was taking a practical approach to the problem, which was fine, but I thought to myself that I already knew all that stuff – I knew how to study: that wasn't the problem. The problem, as I saw it, was that I *had* to study, and I just couldn't do it anymore. I felt like I was in an endurance race, being asked to jump over a series of hurdles. I'd already made several laps in this race over the years – and I felt like I just couldn't jump through one more damned hurdle.

Slowly, though, her words started to get through to me. She pointed out that with the studying I had already done, combined with the fact that the final exam only counted for 30% of my mark, I couldn't possibly fail any classes, even if I tried. Which was fine, I thought – no, I wouldn't fail the course – but that wasn't what I was really worried about. I was worried about failing my own standards, of not achieving perfection. My goal wasn't to pass – it was to pass with flying colours. ▶



Therein lay the problem – and the solution. What I realized, slowly, was that I was waiting for somebody to let me out of the prison I was in – but that I already held the key. I had had it all along, and hadn't realized it. I had been crying for days because I wanted the pressure to stop, for 'the world', for 'them' to stop demanding so much of me. Who 'they' were is a mystery – my teachers? My peers? My parents? No – 'they' were me. I was the one who had set the bar so high. I was the one who refused to accept anything other than perfection. It was me who had decided that the only way to succeed was to suffer enough to earn it. I was me who decided that the only way to succeed was to work day and night, to keep the fuel of anxiety going so that I would learn it all, and couldn't possibly fail.

Knowing that, it was ridiculously easy to let myself out of my cell. I could decide how much I wanted to study. I could decide to change how I thought, to realize that I could succeed without punishing myself, that I could give myself real time off, that I could let myself not memorize every word, know every thought that was ever discussed in class. That I could choose to value my sanity, my happiness, my life, over one exam.

When I walked out into the weak April sunshine that day, I felt like a load had been lifted off my shoulders. I had been freed from the prison which I had made for myself through years of insisting that the only way to succeed was to work harder and harder. Years of telling myself that I had to be the best, that I could only be happy if I was first. Implicitly, telling myself that I was only

of worth if my grades told me so, and that I could only have fun when I had finished with the work – except the work was never really done. There was always another assignment, another test that came before my fun. I now held the key – I could, and would, and should control what was most important in my life, and that was me. Not my GPA. Me.

I have taken this lesson with me through law school. Not that I haven't felt stressed, or that I've feared that I haven't mastered the material, or lost the drive to work hard to succeed. But I am buoyed through it all by the knowledge that I have the key to my prison – which, when you have the key, is no longer a prison at all, just another room. I can decide when enough is enough – I am the one to say that 'yes, you've worked hard; and yes, it's time to stop for a while; and yes, you don't have to be perfect'. It's learning to love yourself, and to see your life as something bigger and more valuable than one exam.

A hard lesson to learn – but invaluable. I can only hope that if any of you feel the way I felt, that you can stop pounding at the bars of the prison you think you're in, and look down at the key you had in your hands all along. ■

People are disturbed not by things, but by the view they take of them.

-- Epictetus

Happiness is just a better perspective on life.

(www.some-guy.com)

# A 'QUALITY OF LIFE' LAW SCHOOL

by Lisa Schneiderman (Law III)

A few years ago, our school underwent a dramatic reform. It adopted transsystemia, which has completely altered our study experience. Now, I think it's time for us to plunge forward into our next revolution: Becoming a 'Quality of Life' legal institution.

Law school should provide us with a means to feel good about ourselves, a place where we feel inspired to learn and are encouraged to meet new people, learn about the world and in the process, mature into thoughtful, informed individuals. Instead this Faculty seems to be a breeding ground for self-doubt and self-loathing and I'm not sure why, because I think we are an interesting and accomplished group of people.

I think we are already on our way to developing a 'quality of life' institution. Our best asset is our diverse student body. We may be lacking in racial equality, but we span a variety of ages, provinces, countries, pre-law backgrounds, legal interests and post-law school goals.

The mental well-being project currently being launched in our Faculty provides us with an opportunity to continue building a law school devoted to promoting a 'quality of life.' I would like to thank all the students and faculty members who are involved and/or concerned about this important

issue. Being open and willing to tackle some of our least attractive problems head-on says a lot about who are and where our school is headed. Here are a few small suggestions that can easily be implemented by next semester. While they don't provide any grand solutions, I think they will go a long way towards improving things.

## Humanize our classes

1- Teachers, please let us know that are interested in teaching students. At the start of next semester, please begin class by introducing yourselves. Why are you interested in this particular area of law? Why did you start teaching? Do you have a family? A law school memory? Anything. And during the semester, feel free to bring the outside world into our classroom. Discuss current events, tell anecdotal stories, anything that will help us relate to you. The truth is that no one can listen to substance for 80 uninterrupted minutes and the teachers who inspire us, who get us excited for class and who get nominated for the teaching excellence awards, are those whom we feel we know.

2- Please fix the temperature in Room 101-102. Physical well-being promotes mental well-being. These classrooms pose more than just a Feng Shui impediment to learning. They are cold. Wearing a scarf, hat and jacket are ▶



not conducive to learning.

## Accountability, Fairness, Transparency

Lead by example.

1- Get rid of the marks meeting. I doubt teachers are ever forced to change their grades at this meeting and no student wants to feel that their grades are being discussed behind their back. This meeting also provides a lame excuse for not returning our exams in a reasonable amount of time. Without it, our exams and grades can be released on a rolling basis so that both student and faculty interests are balanced.

2- Give us feedback in a timely manner. Constructive criticism is an important part of learning. Never are we encouraged to learn from our mistakes and it's partly because we are well into our new courses before we even learn about a poor exam – not that I am advocating that we only get feedback on exams. I have no idea what my grades mean, why some are higher than others, what I am doing right or wrong or where to improve. I lack legal confidence because I have no awareness of my strengths and weaknesses within this discipline.

3- Abolish Optional Papers. They are inherently unfair because they lead to students writing exams of different lengths and we should all be tested the same way. At most, a paper should boost a student's grade by 33% without disadvantaging those who didn't do the 'optional' assignment. Worst of all, optional papers hurt the very students they are designed to help. I don't want anyone writing a

paper because they think it is the only way that can do well/okay in a course. (Confident students do not waste their time writing long papers for 33%. They do not need to. If they are interested in further researching a topic, they can submit such assignments as a 3-credit paper course). Rather than helping students master the course material and become confident, successful test-takers, we encourage them to undertake a massive research assignment, only increasing their stress during the semester and allowing these students to resign themselves as bad law students.

4- Post office hours online and on one of the first floor bulletin boards. This will help create an environment where we are encouraged to ask questions and seek help.

5- Create an open, honest environment where we all have access to the same information. When applications for the law journal, moot teams, clerkships or anything else are due, please tell us what is required. Not only do applications often feel like a waste of time, but it's important to know why we may have been rejected without having to second guess our entire personality and feel hopeless about our grades. A simple sentence, such as 'applicants with a GPA below 3.2 are invited to apply, but preference will be given to those above' goes a long way to reducing expectations and making us feel like we have been treated fairly and with concern.

Finally, once these coveted positions are dispensed, please announce the 'winners'.

Let me feel proud of the people participating, learn more about the on-going extra-curricular activities and head off the gossip mill. This Faculty is far too secretive and it encourages the elitist, clique-y culture that we have grown accustomed to.

6- Put course notes on WebCt. Why does law school promote a sense that more work is better work? Learning isn't about quantity and dare I say, doing everything ourselves. We should all know how to summarize cases, but if we are going to have classes that cover 50+ cases (which I don't even agree with), we shouldn't always be starting from scratch. Rather than making my own summaries, I should be personalizing a set of notes so that I can spend more time focused on the readings and developing a deeper understanding of the topic. I know this would be a lot of work for our overburdened faculty, so they should do the same thing...ask a star student for their summary and personalize it.

7- Extend the Online Course Evaluation deadline. I know they are important, but I don't feel capable of providing a useful response before December 4. It's only when I start studying for an exam that I can appreciate how the entire course fits together. Until then I cannot provide constructive criticism. And I know we don't want grades to influence our evaluations, but we should also be entitled to give feedback on the entire course, including how we are tested and the comments made (or not made) on our exams. In fact, I doubt our grades would influence our

responses as most of us leave the exams thinking that they are 'tough, but fair' and if the evaluations are dated they can be considered with a grain of salt.

## Improving the Atmosphere by Helping Us Make New/Better Friends

Foundations and Legal Methodology in first year were instrumental for meeting people. Law Games, intramural teams and clubs provide more opportunities...although the latter could use better publication. For now, I am putting forth a way for a large group of people to meet more of their peers and/or develop stronger relationships with those we haven't had a chance to better know.

1-French /English language practice groups. I'd like the LSA to get make a list of students who want to improve their language skills, divide these people up into small groups and get a few bilingual students to offer to coordinate some meeting times – movies, pints at Thomson house, lunch in the atrium where we'd only talk in the other language. It would be a fun way to meet people, learn something and hopefully, once more people are comfortable speaking the other language, better integrate English and French students.

Basically what I want is a warmer, happier, more open and friendly learning environment... principles a 'quality of life' legal education should embrace. ■



# IN SUP- PORT

by Joy Elliott (Law IV)

I am writing in response to the article from last week's Quid regarding the "well-being" initiative at the faculty, and to express my support for the project. I believe the issue is a very real one for a large number of the student body. Beyond the sheer mental fatigue of the programme, and the stress of recruitment, I believe that there is something fundamental about legal education and the law school environment that results in an experience of disequilibrium for many students. This disequilibrium can manifest itself psychologically, physically, emotionally, or in a combination of these spheres. The fact that there is little or no space in which to express, and thereby validate, these experiences, has the effect of exacerbating them.

McGill prides itself on innovative legal education, and I see no reason that its unique approach need be confined to the classroom. While we're trained to reflect on objective legal issues, there is little reflection on our own subjective experience as law students and (in most cases) aspiring lawyers. If, as my own experience and my interaction with other people suggests, there is an unidentified sense of malaise among law students and legal professionals, then we are doing a disservice to ourselves, individually and collectively, by remaining silent about it. Embarking on this novel initiative to examine the issue, its implications for the law faculty, and the potential strategies to address it, promises to add a much-needed dimension to the McGill law programme. ■

# WHY JICP SHOULD BE A FIRST YEAR COURSE/WHY WE SHOULD ALL FOLLOW ANDREW WK'S INSIGHT

by David Perri (Law IV)

I've wanted to write this JICP article for a while now, probably for the past year or so. However, at some point, I realized it might be wise to share ideas about JICP after actually having been through the course. So, now that I'm more than two months into the class, I figure I'm qualified enough to publicly manifest observations about Judicial Institutions and Civil Procedure (even though there are still three weeks left in the term).

Quite frankly, JICP is one of the most enlightening courses I've taken in the Faculty. I don't mean enlightening in the sense of Law and Psychiatry, IP, or Sentencing. JICP is enlightening in that it's the type of course I expected to take when I found out that I'd be going to law school.

What I think JICP provides most is a sense of badly needed perspective. As such, it should be a mandatory Law I course. Before starting the LL.B./B.C.L. program, I had only a vague notion of how the law worked, procedurally speaking. That kind of unfamiliarity obviously followed me into first year. It's now funny to say, but amidst the initial few weeks of Constitutional Law or Contracts in year one, I really had no idea how legal

mechanisms actually *worked*. Thankfully, some insight was offered courtesy of Professor Sheppard when she realized half-way through that fall semester that a sizeable part of her Constitutional Law class wasn't aware that you go to Trial first, then the Court of Appeal and lastly the Supreme Court. So she derailed for a second, and quickly explained how the system functioned.

The McGill Faculty of Law shouldn't just assume that incoming students will know these kinds of basic facts. I'll even admit that before taking JICP this semester I only partially understood the role of motions or affidavits. How crazy is that? I'm in my fourth year of law school and, before this past September or so, didn't know much about the ins and outs of actually going to trial. I don't think I'm an isolated case. I'd venture to say I'm part of the majority.

Had I learned all this at the beginning of law school, I think my understanding of the law would have been much clearer and sharper in subsequent years. Sifting through legislation or jurisprudence might have meant slightly more to me. After all, if you understand the process you'll have keener insight into the result, right? Without JICP

being taught early on, students here tend to idly float through the law without much grounding.

Please don't tell me that Foundations covers all this. While I found Foundations to be pretty interesting (though I noticed that by January attendance had dwindled to half and by March no one was going to the class any more), the perception, justly so, is that Foundations is useless. Don't get me wrong, my Foundations professor (Professor Klinck) was great, it wasn't his fault. In fact, he tried as best he could to make such airy fairy bullshit applicable to reality. But, uh, I didn't sign up for a Philosophy degree when I accepted the offer to come to law school. I came to McGill to learn about law and its various systematic requirements. I'm all for theory (my undergrad minor was in Philosophy), but Foundations-type material should only have a limited place in the Faculty.

I think the proof of this phenomenon finds itself in how McGill students feel at l'Ecole du Barreau. From all accounts, we of McGill have no idea how to get our heads around the material le Barreau teaches. We have to go through an adapting phase that ▶



involves learning to actually — gasp! — go to the Code rather than pondering its existential implications. And I think that's a shame. While some of you may accuse me of being too focussed on the professional aspect of law school (this place is, after all, still an *academic* institution) I think that McGill should live in the real world and prepare us accordingly. JICP being a first year course is an integral part of that process.

To shift gears completely (that's a disclaimer to those who are only interested in reading about JICP), I want to say that I wish McGill law students lived a little more like Andrew WK on a daily basis. Andrew WK is a musician who, for a short while circa 2001-2002, looked like he might have some sort of career due to two (admittedly moronic) radio hits, "Party Hard" and "She Is Beautiful". I don't want any of you to get the impression that a) Andrew WK's music is good (because it's not); or b) any of us should follow in his lyrics' footsteps (we shouldn't). However, despite his shoddy musical and lyrical output, his attitude just can't be beat.

Andrew WK is all about living life to its fullest and appreciating every moment you've got. He challenges you to push yourself, and not get caught up in a cycle of victimhood. If you fall, pick yourself up. In Andrew WK's world, life is too precious to be squandered away on self-defeat. So, even if we're not about to appreciate Andrew WK's music, let's still all follow his lifestyle lead. It really is inspirational.

Here are some of Andrew WK's best interview quotes (courtesy of the *Montreal Mirror*):

"I think it's time for human beings to step it up a notch, and just do a little more, give a little more than they take, have a little more patience, raise their expectations of themselves, lower their expectations of others, and make it happen."

"We're incredibly lucky young people who have been given the world for no real reason, but we're not going to trash it, we'll do the most with it and we'll never forget how lucky we are."

"Like anybody, I have little problems, little stupid stuff that constantly comes up, day after day, but I have a solution to instantly kill little problems before they become something to worry about. I write little messages to myself on an index card. My card actually got stolen one day in Paris. I lost lots of my stuff but, once again, that reminds me that I will never take things that are not mine. I stole a lot when I was younger, so I definitely had it coming to me. Anyway, I was feeling real down one day, real stupid, I was in a dark place, really, really out of touch with reality, so I sat down and I typed all these messages, and then, of course, I felt much better. All I have to do is think of a couple of them and they'll set me straight. The classic one is, 'Don't be a fucking wimp,' but now I say, 'Stay strong' because it's more friendly. 'Stay strong' gets me through a lot of stuff."

"Life is a blessing, this is heaven on earth and to ever get tired or frustrated with it is outrageous and unacceptable."

"Getting tired really isn't an option. As far as I'm concerned, each show is the only show we're ever gonna play, and each day is the only day we're gonna get. It's just more fun to live in the moment, to live like your life depends on it, and that's a very hard thing to do. Someone once told me that was the definition of existentialism, but I'm not sure if that's it. A lot of people are concerned with me, they say I'm working too hard and I'm not gonna be able to do this for the rest of my life, but I'm not gonna be able to do anything for the rest of my life, so why should that reality prevent me from doing this now?"

"Hatebreed said it best: satisfaction is the death of desire."

■

Need to talk? Try...

McGill's Mental Health Service

514-398-6019

<http://www.mcgill.ca/mentalhealth/>

McGill Nightline  
(514) 398-6246

Suicide Action Montreal  
(514) 723-4000

Tel-Aide  
(514) 935-1101

# QUIS EST LEX SINE IMPERIO? On Power and the Law

by Sean M. Kelly  
(Law I)

In recent days I have had the pleasure of discussing with several of my peers the contentious relationship between the rule of law and the exercise of state power. To my amazement, I have noted that far from regarding the restrained employment of coercive power by the State as the *sine qua non* of the establishment and maintenance of our legal system, my interlocutors have declared themselves to be profoundly discomforted by the forcible repression of criminality and the inevitable, albeit limited, violence which such action entails. They have, moreover, portrayed coercion as indicative of a grave deficiency in the present political and legal order. Indeed, emphasis has been placed upon the "moral authority" of the judiciary and the conviction has been voiced that a more "just" (a rather abstract and nebulous adjective) legal order would in most instances eliminate the recourse to the coercive apparatus of the modern State.

While I admire their optimism, I am troubled by the repugnance with which they view state power. Students of the Law should, I submit, be acutely aware of the pre



## QUID NOVI

cariousness of our profession and its perpetual dependence upon the capacity of the State to compel and deter. Never has there existed a body of laws which has not been repeatedly and blatantly violated. When the Law is defied, neither remonstrance nor moral sanction is a sufficient response; in truth, each instance of criminality constitutes a distinct threat to the entire state edifice of which the judiciary is an integral component. We must take care never to forget that behind the gavel lies the sword. The legitimacy of any legal system is contingent upon agency, which is to say the ability of courts to *effectively* provide citizens that protection which the Law purports to offer.

It is undoubtedly true that the order fostered by power unconstrained by the rule of law is ultimately tyrannical. Yet, law without power, and that order which issues from its judicious use, amounts to nothing more than platitudinous rhetoric. There can be no politically embodied justice

without law, no law without order, and no order without the circumscribed employment of power.

Many, I suspect, will protest that the Law has historically served as a self-justifying instrument for the suppression of dissidents, thereby perpetuating grotesque inequalities. Perhaps. However, when one reflects upon the implosion of various developing nations, the repulsive acts of pillage, rape and murder which transpired in New Orleans, and the recent riots which occurred throughout France, one is apt to demand the rapid intervention of the State. When coercive state power is not efficaciously brought to bear, order collapses and the equality and security - however imperfect - which the Law affords are savagely displaced by an orgy of indiscriminate destruction.

Those who would respond to such eruptions of lawlessness with concessions, negotiations, and chest-thumping *meae culpa* succeed only in legitimating the atrocious acts of those who have no regard

for the rights and welfare of their neighbours. In such perilous times the sword must be unsheathed so that the Law may prevail. This is not to concede the truth of Cicero's harsh maxim *inter arma enim silent leges*. On the contrary, even as the iron fist of the State descends upon the agents of anarchy, the Law with undiminished resolve continues to ordain and restrain. The application of coercive state power must always be constrained by a vigilant judiciary which brooks no appeal to *raison d'état* and reminds those who occupy political office that every citizen must yield before the boundaries imposed by the Law.

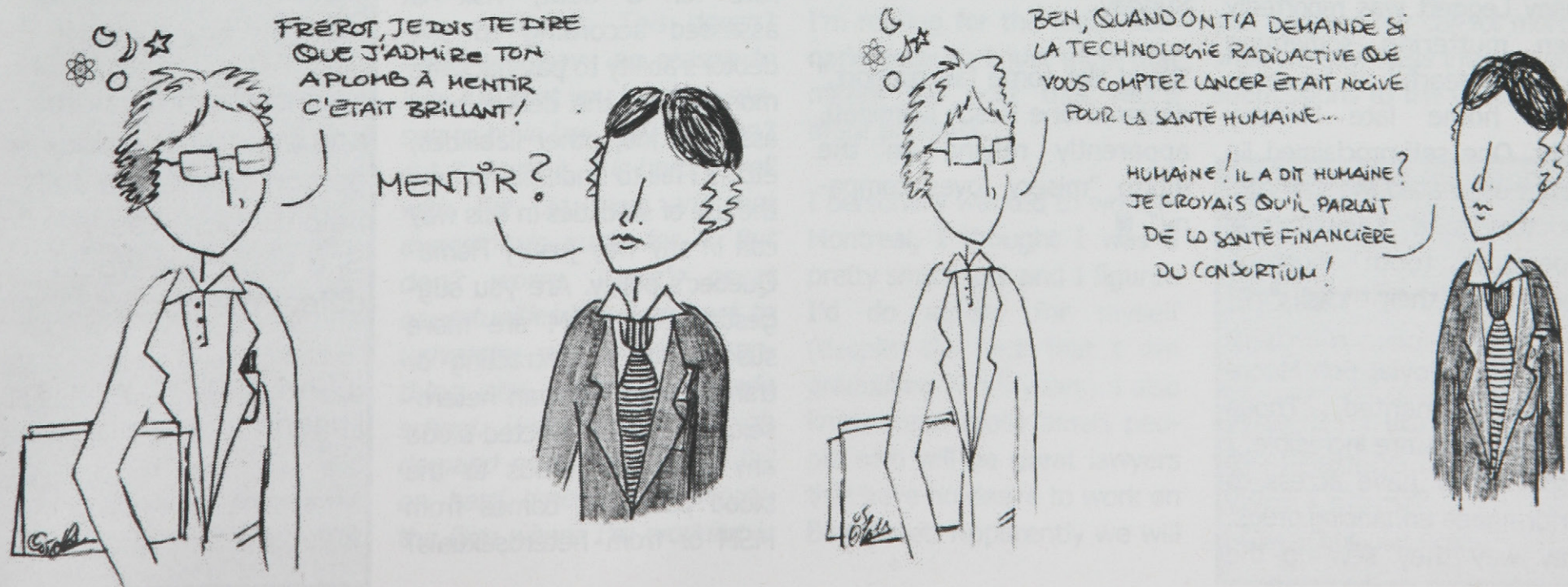
While it may be laudable that law students perceive themselves as participants in a great ethical enterprise, endeavoring to fashion a more equitable society, I would respectfully remind my colleagues that no law has ever enjoyed universal adherence. The pursuit of politically embodied justice becomes futile should the structures

and mechanisms for reform delineated by the Law be violently overthrown. It is a lamentable, yet ineluctable, paradox that the peace, stability and civility which the Law seeks to engender and sustain must be secured through the violence of power. Nonetheless, we should not delude ourselves by denying that the dominion of Law rests upon some force other than the coercive capacity of the State. As both citizens and lawyers it would be irresponsible to remove the sword and consequently render the gavel impotent. We should instead recognize the necessity of coercion for the preservation of the domestic tranquility which is our greatest public good, and strive to ensure that no matter how dire the circumstances, Power invariably pays tribute to the supremacy of the Law.

Thus I invite you to reflect upon the question with which I began this piece: "Quis est Lex sine Imperio?" ("What is Law without Power?"). ■

# LES AVENTURES DU CAPITAINE CORPORATE AMERICA

par Laurence Bich-Carriere (Law II)





# CHICO RESCH ON THE ROPES

by Jeff Derman (Law III)

The mighty Medmen of division B hockey wrapped up their seventh straight victory Monday night over the defending C league champion "Beavers" 7-1. The normally fearless Chico Resch (also undefeated) may have shown uncharacteristic signs of anxiety as they anticipate their semester finale match up of the titans on Sunday November 27<sup>th</sup> at 4:15pm which is being billed as the "Greatest Show in B League Intramural Hockey in the 2005 Fall Semester at McGill". A catchy slogan which enthralls hockey fans everywhere.

"I stayed up all night just thinking about them," reported one Resch star.

"Medmen rhymes with Redmen, and I think that gives them an unfair advantage," complained another.

Usually fearless superstar Casey Leggett was reportedly seen muttering something dark and fearful as he sauntered home late Monday night. One self-proclaimed lip reader estimated the star said, "Doctors and their tricks, especially tooth doctors. Doctors and their tricks...."

The usually jovial Bob Moore nearly commented, "Those Medmen guys are incredible. I suspect they have access to performance enhancing drugs. They way they sew up the

games reminds me of last Tuesday's edition of ER. Very intimidating."

But all is not lost for the team named for a very mediocre New Jersey Devils goaltender from the 1980s. They still have lucky coins they can count on. Especially new pennies. Reports indicate that captain Mike Hazan will be lodging a new penny into each of the player's skates just before gametime.

"I really think the pennies are going to help us. At least psychiatrically. Some guys are slipping into bipolar cycles, and I am counting on the copper to induce a manic phase come game time," Hazan might have explained.

With the odds against them, their spirits down, and team leaders resorting to medical quackery, Chico Resch looks to be set for an uphill battle when the puck drops on Sunday.

"We'd like some fan support," declared one Resch illuminati, apparently relying on the motto "misery loves company". ■

# A REPLY TO: "LAW-A-BLUDEGEON FOR THE IGNORANT?"

by Adrian Lomaga (Law II)

Sean, since when does an ideological disagreement warrant a personal attack? By all means, criticize my opinions. Call them unsophisticated, archaic, and heartless. Better yet, why not throw in a bit of substance and justify your critique? But characterizing me as having a "heart of stone" for the sake of a rhetorical flourish went too far. Your reference to drawing my blood was cruel because you did so with the knowledge that I am deferred for life from giving blood.

Linking the statistics used by Hema-Quebec, to justify a lifetime deferral of men who have sex with men (MSM) from donating blood, with stats used by creditors to determine the risk posed by debtors, is nothing short of sophistry. The one is not connected to the other. In the context of determining an appropriate interest rate for a debt, risk is assessed according to the debtor's ability to pay back the money. Does the debtor have assets, a job, other liabilities, etc...? I fail to understand how the use of statistics in this way can in any way justify Hema-Quebec's policy. Are you suggesting that MSM are more susceptible of contracting or transmitting HIV than heterosexuals? Is HIV-infected blood any more dangerous to the blood pool if it comes from MSM or from heterosexuals?

Do HIV tests more accurately detect HIV in heterosexuals than in MSM? After having spent an entire summer learning about this issue, there is strong evidence to show that the lifetime deferral of MSM cannot be justified by the scientific literature. And Sean, if you don't want to take my word for it, why not ask Dr. Jeannie Callum, Director of Transfusion Medicine at Sunnybrook & Women's College Hospital, who also agrees with me? Hema-Quebec's ban is a policy based on unfounded assumptions that continues to stigmatize the gay and bisexual community. ■

If a turtle doesn't have a shell, is it homeless or naked?

If a parsley farmer is sued, can they garnish his wages?

I went to a bookstore and asked the salesperson where the self-help section was. She told me it would defeat the purpose.

If love is blind, why is lingerie so popular?

(www.some-guy.com and www.ebaumsworld.com)



# WHAT'S THE BUZZ? (AND THANK YOU RENÉE!)

by Chima Ubani (Law II)

After reading Gord's confession in the Nov. 8<sup>th</sup> Quid I figured I would check out this "Lawbuzz" thing. Yeah...errr...that's it, it's not like I had ever been on lawbuzz.ca before reading that article.... What!? Are you suggesting that I have been spending my time perusing that wasteland since last year?! I don't know what you're talking about....

Anyways, I've been wanting to write something lowbrow to submit to the Quid for a long time now. Anything to combat the recent trend of writing on "legal" or "academic" issues that has been threatening to turn the Quid into McGill Law Journal Jr. Renée Darisse's article "Untitled" (Nov. 15<sup>th</sup>) put into words exactly what I have been muttering about to no one in particular for the past few months. So I thought to myself, what is the best way to dumb down (or perhaps lighten up) the Quid with minimal effort on my part? Then it came to me, copy someone else's words and criticize them! (for those of you worried about my potential liability for copyright infringement, rest assured, my reproduction of the work below surely falls within the Fair Dealing exception contained in s.29.1 of the Copyright Act, R.S.C. 1985 c. C-42). So, in case you still haven't ventured onto lawbuzz.ca I present a snippet of

what it has to offer.

From what I gather, the whole issue with us three and a half year students being perceived as stupid and lazy by law firms has already been addressed (apparently by the Dean?). And the controversy over "naming names" seems to have cooled down, that's a good thing. So I thought I'd shed some light on some of the other goings on in the world of lawbuzz.

For example, did you know that "Bay Street is Life"? This is the title of perhaps my favorite thread on lawbuzz; those of you who have just gone through the Toronto OCI process should have a particular appreciation for it.

The anonymous author writes:

*Just wanted to say, if you're not working on Bay Street, you're life AS A LAWYER is now worthless. This doesn't mean you have no reason to live, just that you have no reason to be in law. You just can't cut it. I admit, it is hard to roll with the big boys and not everyone is made for it. But don't worry, there's great opportunities if you go back to university and study something else, or even a trade school. Welders are in high demand now. Also, if you fall on hard times, don't worry, the firm where I'm working is*

*very generous towards the poor and I'm sure we'll be running an anti-poverty campaign for the homeless.*

*Plus I'll buy you lunch sometime this semester.*

Now, besides the obvious grammatical flaws and spelling errors which we won't take the time to point out (that's kind of seen as a copout in message board world, always better to attack the substance), this post is just ridiculous and represents everything that is so great (or bad, if you tend to panic and take this kind of stuff seriously) about lawbuzz. There are two possibilities, the post was either written by a "troll" (geek talk for someone who posts just to stir stuff up on a message board) or it was actually written in earnest by a student who is going to be working on Bay Street this summer! (Maybe from a school with a "T" in its name.) I'm rooting for the latter scenario because I just think that makes the post that much more priceless.

I personally wanted to work in Montreal, I thought I was a pretty smart guy and I figured I'd do alright for myself (despite the fact that I am graduating in 3.5 years). I also know some really smart people who will be great lawyers that have no desire to work on Bay Street. Apparently we will

all have to reconsider those life decisions in light of this new information, unless we want to be worthless! Now, this is probably the point where most well written, well researched Quid articles would embark on a discussion about values and perceptions and institutionalization and what normative forces have operated to create the attitude displayed by the anonymous poster and yada yada yada. I'm not going to do that, partly because the Lakers' game is starting soon and partly because that was not the point of this article. The post is ridiculous, everyone knows that.

So what was the point of this article? I don't know, I thought the post was hilarious and I wanted to get something into the Quid, seemed like a perfect situation. I also wanted to thank Renée for writing that great article last week and endorse her call for more, shall we say, "less intellectual" submissions to the Quid. ■

Have ex-civil litigation lawyers been distorted?

Shouldn't it be, "Some things in moderation"?

Why don't you ever see the headline Psychic Wins Lottery?

(www.dribbleglass.com)



# THE ABORIGINAL LAW ASSOCIATION'S FIRST TALKING CIRCLE

by Michael Smith (Law III)

On Monday, November 7<sup>th</sup>, the Aboriginal Law Association held its first talking circle discussion. Four lawyers practicing in the field of aboriginal law introduced the discussion: James O'Reilly, David Shulze, John Paul Murdoch, and André Binette. The event was interesting as much for its format as for its participants, and for me, the real object of the talking circle format was to maximize the participation of students interested in issues of aboriginal law.

Those of us in 3<sup>rd</sup> year are familiar with talking circles thanks to Professor MacDonald who introduced us to them in Foundations. Talking circles are different from debates, negotiations, and other forms of discussion. While debates and negotiations tend to result in conclusions with winners and losers on certain issues, talking circles are an opportunity to gain insight, information, and explanations on a subject from the collective contributions of the participants.

The process of a talking circle requires that everyone listen to the speaker. The speaker draws her authority from a "talking feather" which is passed clockwise in a circle. So long as one holds the talking feather, the others must listen in silence. There are no interruptions, no direct responses, and no rebuttals. Also, it is important that the

participants try to speak from their position outward as opposed to trying to react to someone else's position.

The subject of Monday's discussion was quite broad: aboriginal litigation and negotiation in Quebec. It is difficult to summarize the enormous diversity of issues that arose from the many contributions that were made. However, some of the themes that kept recurring were: the advantages and disadvantages of litigation versus negotiation; governments' continued failures to consult with aboriginal peoples despite the Haida and Taku River Supreme Court decisions requiring them to do so; the challenges to aboriginal self-government; and alternatives to litigation and negotiation.

What was clear from the discussion was the enormous complexity and connectivity in the relationship between litigation and negotiation of aboriginal claims. Some claims which were negotiated and thought settled, such as the James Bay and Northern Quebec Agreement, are still being challenged and litigated thirty years later! The choice between litigation or negotiation can depend on the cohesion of the community. It is hard to negotiate a settlement if the community is not in agreement on what they want as an outcome. This can also pose a challenge for aboriginal lawyers who may sometimes

find themselves in conflict when they represent members of their own community.

What I found most interesting were the comments on alternatives to legal action. For example, what is the role of the press in portraying aboriginal claims and disputes? How have acts of civil disobedience such as the Oka blockade influenced government policy? How can the important role of spirituality in aboriginal life be represented in a society that is unaccustomed to oral traditions? There were also several interesting comments regarding the possibility of introducing specialized courts like the New Zealand model, using international fora to advance aboriginal rights issues, and increasing the education and participation of women in aboriginal communities.

I hope that there will be more talking circle discussions, and I have two suggestions for future organizers. First, it is important to go around the circle several times so that people have the opportunity to adjust their positions. Second, it is important that everyone who participates be made to feel comfortable contributing their thoughts and ideas, even if this only consists of their name and reason for participating. Overall, I think this talking circle discussion was a success, and I want to thank everyone who participated. ■

## The Riddler

What gets wetter and wetter the more it dries?

A towel.

I can run but not walk. Wherever I go, thought follows close behind. What am I?

A nose.

What goes around the world but stays in a corner?

A stamp.

The man who invented it doesn't want it. The man who bought it doesn't need it. The man who needs it doesn't know it. What is it?

A coffin.

I never was, am always to be,  
No one ever saw me,  
nor ever will,  
And yet I am the confidence of all  
To live and breathe on this terrestrial ball.  
What am I?

Tomorrow.

Pronounced as one letter,  
And written with three,  
Two letters there are,  
And two only in me.  
I'm double, I'm single,  
I'm black, blue, and gray,  
I'm read from both ends,  
And the same either way. What am I?

An eye.

(<http://rinkworks.com/brainfood/riddles.shtml>)



# JUSTICE FONDAMENTALE OU ORGANISATIONNELLE?

par Marie-Eve Phaneuf (Law IV)

Dans un article intitulé « The Practice of Law as Confidence Game : Organizational Cooptation of a Profession », Abraham S. Blumberg analyse de façon sanglante, mais réaliste, une situation de plus en plus répandue dans les tribunaux américains en matière de droit criminel, s'apparentant d'ailleurs trop souvent à un déni de justice fondamentale. « The overwhelming majority of convictions in criminal cases (usually over 90%), » écrit-il, « are not the product of a combative, trial-by-jury process at all, but instead merely involve the sentencing of the individual after a negotiated, bargained-for plea of guilty has been entered. »

L'auteur attribue la popularité montante de cette 'solution' expéditive, non seulement au nombre élevé des accusés en attente de procès, mais aussi au fait que « [o]rganizational goals and discipline impose a set of demands and conditions of practice on the respective professions in the criminal court, to which they respond by abandoning their respective ideological and professional commitments to the accused client, in the service of these higher claims of the court organization. All court personnel, including the accused's own lawyer, » ajoute-t-il, « tend to be co-opted to become agent-mediators who help the accused redefine his situation and restructure his perceptions

concomitant with a plea of guilty ».

Dans les faits, on constate donc qu'afin de servir non pas les intérêts de la justice, mais ceux de la court, tout le monde au tribunal coopère, dans le but non avoué d'accélérer les procédures menant à l'incarcération de celui que l'on juge coupable d'emblée, question de cohérence et d'efficacité, à commencer par l'avocat de la défense qui se fait, pour l'occasion, agent-double ou encore bureaucrate de la court. À la fin des procédures, tous les individus intéressés sont contents, même l'accusé, qu'il fallait en premier lieu convaincre, et qui en viendra à ce dire que malgré son innocence (potentielle) vis-à-vis des accusations qui lui avaient été portées cette fois-là, il était sûrement coupable d'autre chose. Résultat : les apparences sont sauvées et chacun rentre chez lui avec le sentiment du devoir accompli; si l'accusé lui-même admet sa culpabilité, c'est qu'à l'égard de la justice fondamentale, il mérite sa peine. En somme, cette situation se résume à ce que Blumberg appelle un « organized system of complicity »; « a work arrangement in which the patterned, covert, informal breaches and evasions of 'due process' are institutionalized, but will, nevertheless, be denied to exist ».

« Indeed, the extremely high conviction rate produced without the features of an adver-

sary trial in our courts would tend to suggest that the 'trial' becomes a perfunctory reiteration and validation of the pre-trial interrogation and investigation. »

Dans la même veine, le jugement de la Cour d'appel de l'Ontario dans *R. v. Petrovic* 1984 CarswellOnt 63; 41 C.R. (3d) 275, 47 O.R. (2d) 97, 10 D.L.R. (4th) 697, 12 C.R.R. 98, 13 C.C.C. (3d) 416, 4 O.A.C. 29 vient nous rappeler que ce type de déni de justice fondamentale n'arrive pas que chez nos voisins et, par la même occasion, illustre une autre facette de cette même problématique.

Cet arrêt nous raconte un épisode marquant de la vie d'un quadragénaire d'origine yougoslave tout juste débarqué au Canada avec un visa de travail, dans l'espoir de se trouver un emploi en tant que musicien professionnel. Nouvellement marié, puis soudainement veuf, M. Petrovic se retrouva dès lors en procès pour une histoire de violence conjugale qui tourna mal en raison des idées suicidaires de son épouse et de la peur engendrée par le comportement de l'homme.

Or, sans vouloir excuser une telle conduite, ce n'est pas les faits mis en cause dans ce jugement mais le traitement dont a fait l'objet l'accusé et ses caractéristiques personnelles qui ont retenu mon attention. En effet, le procès

de M. Petrovic qui, étant d'origine yougoslave ne parlait ni Anglais ni Français, dura quatre jours, au cours desquels l'accusé eut droit, article 14(1) de la *Charte canadienne des droits et libertés* oblige, à un interprète, en l'occurrence nul autre qu'un des principaux témoins de la couronne. À mon humble avis il est légitime de se demander si, dans l'hypothèse où la conduite d'un procès est soumise à une « adversarial procedure », il n'y aurait pas là des risques potentiels en ce qui concerne l'équité et la justice du procès. Car, nonobstant le serment fait par cet « interprète » en quelque sorte commis d'office, j'aurais certainement douté de l'impartialité de cette personne si je m'étais trouvée à la place de l'accusé.

Néanmoins, au moment de décider de la peine, le juge de première instance, celui-là même à qui l'on doit l'idée, pour le moins efficace, de suggérer à l'accusé et son avocat de « choisir » le témoin de la partie adverse comme interprète qui, d'ailleurs, pour une raison encore obscure, auraient accepté cette suggestion d'un commun accord sans toutefois parler la même langue, aurait indiqué au témoin qu'il ne lui était pas nécessaire de traduire la totalité des échanges qui allaient suivre entre le juge, l'avocat de la couronne et celui de la défense. Ainsi donc, sans l'avantage d'une connaissance même minimale du droit ou de l'interprétariat, cette personne aurait tout simplement « résumé », en Serbo-Croate, les éléments de preuve lui semblant les plus pertinents pour le bénéfice de l'accusé »



qui s'apprêtait à recevoir une peine (sévère) de cinq ans pour voie de fait ayant causé des lésions corporelles.

En appel de la peine et du verdict, le juge considéra l'article 650 du *Code criminel* qui codifie le droit de l'accusé à être présent pendant toute la durée de son procès, puisque plusieurs décisions avant Petrovic avaient jugé que priver un accusé de son droit à un interprète, ne serait-ce que durant une partie du procès, contrevenait au droit reconnu à l'article 650.

Qu'à cela ne tienne, nous dit la Cour d'Appel, « provided that no objection is taken to this procedure (to have a principal Crown witness act as the accused's interpreter) and the translation is accurate and complete » une telle situation ne crée pas de « major conflict ». Or, sans même se demander comment l'avocat de la défense a pu accepter une telle procédure pour son client, comment ces deux-là communiquaient ensemble, ou qui a pu déterminer de l' « accuracy » de cette traduction (seul l'interprète et l'accusé parlaient le Serbo-Croate), il est important de noter que c'est parce que la traduction de l'interprète avait été incomplète, de l'aveu même de la couronne, que tout ce beau monde se retrouvait en appel.

Finalement, à la suite d'échanges où il fut presque autant question du « additional burden » imposé au témoin qui avait dû servir d'interprète que de la violation des droits de l'accusé, le juge, qui avait décidé de juger de l'appel de la peine « on the basis that the appellant was

*inadvertently denied the assistance of an interpreter »*, (il parlera d'ailleurs plus tard d'une « accidental contravention of this right »), diminua la peine de cinq à deux ans d'incarcération pour une raison sans lien avec le droit de l'accusé à être (« meaningfully ») présent à son procès, en l'occurrence le fait que le juge de première instance avait pris en considération des « faits » qui n'avaient même pas été allégués par la couronne.

En conclusion, le procès le M. Petrovic et le traitement qu'il a reçu en appel me laissent perplexe. Qu'en est-il de l'universalité d'un accès significatif à la justice et de la norme constitutionnelle « d'égalité devant la loi et d'égalité de bénéfice et protection égale de la loi (*Charte canadienne des droits et libertés*, Art. 15(1)) » ? Dois-je en conclure, à l'instar de Blumberg, qu'aujourd'hui, dans notre beau grand pays, la justice fondamentale, voire la justice tout court, peut être impunément reléguée au rang de la fiction juridique, au même titre que « the adversarial character » de nos procès criminels pour une question d'efficacité organisationnelle? Ou suis-je tout simplement trop sensible ? ■

*The forgoing article reflects a discussion which took place in my Law and Poverty class.*

Why are builders afraid to have a thirteenth floor but book publishers aren't afraid to have a Chapter 11?

([www.dribbleglass.com](http://www.dribbleglass.com))

## A FINAL NOTE FROM BRIGITTE

par Brigitte St-Laurent (Directrice, Service de Placement)

**Chers étudiantes et étudiants,**

Some of you may have heard already that I will be leaving the Faculty of Law at the end of the week. I have decided to take on a new challenge and have accepted the position of Director, Support Services at Concordia University. In this capacity, I shall be responsible for the oversight and management of five directorates, namely the International Students Office, the Office for Students with Disabilities, the Centre for Native Education, Legal Information Services and the Student Advocate Program.

Je tiens toutefois à vous faire savoir qu'avant mon départ, plusieurs mesures ont été prises afin de faciliter la transition :

Les invitations pour la « course aux stages » et pour la *Journée Carrières Droit Civil* ont été envoyées ;

Le nécessaire a été fait afin que vous puissiez, cette année encore, obtenir votre copie du guide *Profiles/Profils 2006* à temps pour le recrutement de Montréal. Il sera prêt dans les délais requis ;

Mes collègues de CAPS ont aimablement accepté de vous rencontrer si besoin était afin, notamment, de procéder à la vérification de votre CV ou de lettres de motivation ;

Les étapes préliminaires de plusieurs des activités prévues à l'hiver ont été complétées ; les représentants des *clubs* qui travaillent en collaboration avec le CPO sur certains de ces projets ont été rencontrés ;

Vous aurez bientôt accès sur *CareerLink* à de nouvelles sources d'information dont

une liste de programmes d'été offerts à travers le monde ; *JobBank* et *News Centre* (sur *CareerLink*) seront mis à jour régulièrement ;

Les étudiants de première année ont été rencontrés afin d'être informés des activités et des processus de recrutement à venir ;

Le programme de simulation d'entrevues en vue de « la course aux stages » s'est déroulé, avec succès, la semaine dernière.

Je suis également heureuse de vous annoncer que Catherine Bleau dirigera le Service de placement dès le 5 décembre prochain à titre de Directrice par intérim. Catherine rejoindra la Faculté forte de son expérience acquise chez Ogilvy Renault. Je suis confiante que l'ensemble de ces mesures fera en sorte que, cette année encore, la « course aux stages » se déroulera sans problème.

Should you have any questions before December 5th, I would recommend that you contact Jennifer Botsford ([jennifer.botsford@mcgill.ca](mailto:jennifer.botsford@mcgill.ca), 514-398-6159) for information.

Sachez que je quitte la Faculté à la fois heureuse des publications, des programmes et des services mis de l'avant par le CPO depuis cinq ans et triste de quitter le formidable groupe d'étudiants que vous constituez. Je tiens à vous souhaiter tout le succès que vous méritez dans vos carrières respectives.

Cordialement,

Brigitte St-Laurent  
Directrice, Service de placement ■